

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HOLOGRAM USA, INC., et al.,

Plaintiff(s),

vs.

CIRQUE DU SOLEIL MY CALL, LLC, et al.,

Defendant(s).

Case No. 2:14-cv-0916-RFB-NJK

ORDER GRANTING MOTION TO
 STAY DISCOVERY
 (Docket No. 76)

Pending before the Court is Defendant Arena3D Industrial Illusion, LLC's ("Arena3D") motion to stay discovery. Docket No. 76. Plaintiffs filed a response in opposition and Arena3D filed a reply. Docket Nos. 79, 88. The Court finds the motion properly decided without oral argument. *See* Local Rule 78-2. For the reasons discussed below, the motion is GRANTED.

Arena3D seeks an order staying discovery pending resolution of, *inter alia*, its motion to dismiss for lack of personal jurisdiction.¹ While the filing of a motion to dismiss for lack of personal jurisdiction does not automatically result in an order staying discovery, such a motion "strongly favors a stay, or at a minimum, limitations on discovery until the question of jurisdiction is resolved." *Kabo Tools Co. v. Porauto Indus. Co.*, 2013 U.S. Dist. Lexis 53570, *3 (D. Nev. Apr. 15, 2013) (quoting *AMC Fabrication, Inc. v. KRD Trucking West, Inc.*, 2012 WL 4846152, *2 (D. Nev. Oct. 10, 2012)).

¹ Arena3D asserts several bases for staying discovery. Because the Court finds a stay proper pending resolution of the motion to dismiss for lack of personal jurisdiction, the Court expresses no opinion as to the other bases presented.

Courts are more inclined to stay discovery pending resolution of such a motion because it presents a “critical preliminary question.” *Id.* In this case, the undersigned has reviewed the briefing on the motion to dismiss for lack of personal jurisdiction, and finds Arena3D’s arguments to have sufficient weight to warrant staying discovery.²

Plaintiffs also argue that a complete stay of discovery is not warranted because jurisdictional discovery should be allowed. *See* Docket No. 79 at 6-7. In opposing the pending motion to dismiss, Plaintiffs have requested that the district judge grant jurisdictional discovery if he finds that the record is not sufficiently developed. *See* Docket No. 80 at 11-13. Thus, it is more prudent for the undersigned to defer the question of whether jurisdictional discovery is necessary to the assigned district judge in his determination of the merits of the pending motion to dismiss. *See, e.g., AMC Fabrication*, 2012 WL 4846152, at *4.³

For the reasons discussed above, the motion to stay discovery pending resolution of Arena3D’s motion to dismiss for lack of personal jurisdiction is hereby **GRANTED**. This stay of discovery relates only to discovery propounded on or propounded by Defendant Arena3D. Discovery among the other parties shall continue. *See, e.g., White v. American Tobacco Co.*, 125 F.R.D. 508, 509 (D. Nev. 1989) (denying motion to stay discovery against one defendant where motion to dismiss was filed by another defendant). In the event the motion to dismiss for lack of personal jurisdiction is not granted in full,

² Conducting this preliminary peek puts the undersigned in an awkward position, and is not meant to prejudice the outcome of the motion to dismiss. *See, e.g., Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 583 n.4 (D. Nev. 2013) (citing *TradeBay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011)). Moreover, the Court is cognizant that how the undersigned “sees the jurisdictional picture may be very different from how the assigned district judge will see the jurisdictional picture.” *Kabo Tool*, 2013 U.S. Dist. Lexis 53570, at *3 (quoting *AMC Fabrication*, 2012 WL 4846152, at *4).

³ Plaintiffs also argue that Arena3D failed to sufficiently meet-and-confer prior to filing its motion, which Plaintiffs assert is a basis to deny the motion to stay discovery. *See* Docket No. 79 at 7-8. In the circumstances of this case, the Court will nonetheless exercise its discretion to decide the motion to stay discovery on its merits. *Cf. Preston v. Clark County Collection Serv., LLC*, 2014 U.S. Dist. Lexis 76681, *8, 9 (D. Nev. June 2, 2014) (finding Defendant did not engage in a good faith effort to resolve the matter, but nonetheless ruling on the motion to stay discovery and limiting the discovery allowed).

1 within seven days of the issuance of the order resolving that motion, Plaintiffs and Arena3D shall file a
2 joint status report.

3 IT IS SO ORDERED.

4 DATED: November 24, 2014

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7 NANCY J. KOPPE
8 United States Magistrate Judge
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